IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 2594 OF 2007.

Nisha Ajit Bhonsle & others. ... Appellants.
Versus.
Union of India
thorugh General Manager,
Central Railway, CST, Mumbai. ... Respondent.

Shri Kuldeep Singh for the Appellants.

Shri T.J.Pandian for the Respondent.

CORAM : ABHAY S.OKA, J.

DATED : 21st November, 2007.

P.C.:

1. Admit. The Advocate for the Respondent waives service. Considering the facts and circumstances of the case, the Appeal is taken up for hearing.

2. The Appellants are the Applicants who filed an Application before the Railway Claims Tribunal for grant of compensation of a sum of Rs.4,00,000/- on account of death of one Ajit Bhonsle in an accident arising out of an alleged untoward incident. The claim petition filed by the Appellants has been dismissed by the impugned order on the ground that at two places in the claim petition two different dates of occurrence of the untoward incident have been mentioned. One date mentioned is 15th July 2003 and another is 15th June 2003. The Advocate for the Appellants submits that the correct date is 15th July 2003. He submits that

necessary amendment can be carried out to the claim petition if an order of remand is passed.

2. I have heard the Advocate appearing for the Respondent who has opposed the Appeal.

3. I have considered the submissions. It must be stated that the Railway Claims Tribunal has taken a very hyper technical approach in the matter. Such an approach is not contemplated on the part of the Railway Claims Tribunal. The Appellants could have been permitted to lead evidence to establish the untward incident and the Application ought to have been decided on merits instead of dismissing the same on technical ground. Nevertheless the Applicants have shown willingness to correct the error which appears to be an inadvertent error while drafting the claim petition.

4. Hence the Appeal is disposed of by the following order:

i) The impugned order dated 17th October 2005 is quashed and set aside. The claim petition filed by the Appellants is restored to the file of the Railway Claims Tribunal.

ii) It will be open for the Appellants to carry out amendment to the claim petition by correcting the date of the incident.

iii) The Appellants are directed to appear before the Railway Claims Tribunal on 21st January 2008. The Tribunal will decide the Claim petition as expeditiously as possible.

iv) There will be no order as to costs.

Judge.